



## CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

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# BZA Staff Report

**To:** Board of Zoning Appeals Members

**From:** Alex Getchell, AICP, Senior Planner

**Date:** October 31, 2019

**Re:** Cases ZB 2019-16 (UV/V) | 191 Commerce Dr. | Cord Commercial Enterprises, LLC

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### REQUESTS:

**Case ZB 2019-16 (UV):** A request for a variance of use from the City of Franklin Zoning Ordinance, Article 3, Chapter 21, to allow a retail use (medium scale) – auto parts sales (without onsite repair), in the IBD: Industrial, business development zoning district, and a Developmental Standards Variance from the Zoning Ordinance, Article 7, Chapter 16, Landscaping Standards, to allow a reduction of parking lot perimeter landings requirements. The property is located at 191 Commerce Drive and is 1.09 acres in size.

### PURPOSE OF STANDARD:

The “IBD”, Industrial: Business Development zoning district is intended to provide locations for small scale manufacturing, construction, production, and assembly uses, as well as other light industrial uses. This district is specifically intended to provide appropriate setbacks and standards for small-scale businesses, entrepreneurial operations, start-up businesses, and similar operations.

### CONSIDERATIONS:

#### **Proposed Use | Auto Parts Sales**

1. Cord Commercial Enterprises (Petitioner), represented by Fred Paris, is proposing to operate a NAPA Auto Parts branded retail and wholesale auto parts sales and distribution business at 191 Commerce Drive. Petitioner wishes to solely occupy the 11,955 sq. ft. structure, with up to five employees onsite, 1,932 sq. ft. of office/retail space, and three delivery vehicles stored onsite.  
[See [Exhibit A: Petitioner’s Letter](#)]
2. Automobile Parts Sales is defined as “The use of any structure and/or property for the display and sale of new or used parts for motor vehicles. This does not include any salvage yard or the storage of inoperable vehicles.”
3. Automobile Parts Sales (without on-site repair) is listed as a Retail Use (Medium Scale) per the land use table in Article 3.2, and is listed as a *non-permitted use* in the IBD (Industrial: Business Development) zoning district.
4. Retail Use (Medium Scale) is listed as a permitted use in the MXD (Mixed Use: Downtown Center), MXC (Mixed Use: Community Center), and MXR (Mixed Use: Regional Center) zoning districts.
5. Use Variance: *Petitioner is requesting a variance of use to be permitted to operate a retail use (medium scale) – auto parts sales (without onsite repair) in the IBD: Industrial, Business Development zoning district.*

### **Site Plan**

6. The site plan provided shows the existing structure and existing site layout, with the proposed addition of eight (8) parking spaces along the north side of the property. [See [Exhibit B: Site Plan](#)]
7. Petitioner is proposing twenty (20) total parking spaces, including the proposed new eight spaces, with one of the spaces reserved for handicap parking. See items #8-11 below.

### **Parking**

8. Article 7, Chapter 10 of the Zoning Ordinance states “Any use which is nonconforming in the zoning district in which it is located or is permitted by special exception or variance shall provide parking which is consistent with the use and the standards for the zoning district in which the use is permitted by this Ordinance. In no case shall the number of parking spaces required for non-conforming uses or those permitted by special exception or variance be solely based on the standards for the district in which they are located. The Board of Zoning Appeals shall specify the number of parking spaces for all uses permitted by special exception or variance consistent with the intent of this Chapter.”
9. According to Article 7, Chapter 10, Parking Standards:
  - A minimum of 1 off-street parking space is required for (rounded to the nearest complete space):
    - Every 300 sq. ft. of gross floor area retail space;
    - Each employee working on the largest shift; and
    - Each business vehicle stored on-site.
    - At least one (1) space must be reserved for disabled persons for every 25 parking spaces provided.
  - Minimum parking stall size is 9’ x 18’ and must be striped.
  - Each parking space must be paved with asphalt or concrete.
10. Therefore, according to Article 7.10, the number of off-street parking spaces required for the proposed use are as follows:
  - Retail Space (1,932 sq. ft.): 6 spaces
  - Employees on largest shift (5): 5 spaces
  - Business vehicles (3): 3 spaces
  - Disabled Persons spaces required: 1 spaces
  - TOTAL SPACES REQUIRED: 14 spaces
  - TOTAL SPACES EXISTING: 12 spaces
  - TOTAL SPACES PROPOSED: 20 spaces
11. At least one (1) space provided must be reserved for disabled persons, consistent with the requirements of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, Chapter 4.1.2 (5)(a) and all applicable revisions.

### **Comprehensive Plan**

12. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Business Development Area. “Business development areas are intended to serve as both the permanent home of small scale businesses and incubators of new local companies. Land uses in business development areas include manufacturing, light industrial operations, contractor’s offices, and products suppliers. In many instances the types of businesses in these areas are those that have both commercial and industrial qualities. The business development areas provide these uses the ability to serve customers in a setting that allows outdoor storage and the operation of heavy equipment and machinery that often are involved.”
13. The 2013 Franklin Comprehensive Plan, Land Use Plan indicates the current inventory of industrial land may not be adequate, and goes on to state that “more (industrial) land is needed to accommodate a variety of employer sites.”
14. The 2013 Comprehensive Plan, Land Use Plan also discusses the importance of maintaining an adequate inventory of available industrial land. “The land does not have to be completely developed, but should at least be zoned appropriately to protect it from competing uses.”

## **Zoning Ordinance**

15. According to Article 2.5: A special exception or variance ceases to be authorized and is expired if the obtaining of an Improvement Location Permit, or the execution of the approval has not been completed within 1 year of the date the variance or special exception is granted. The variance or special exception shall also expire if the approved construction has not been completed and approved by the Planning Director as being consistent with all written commitments or conditions, the requirements of this Ordinance, and all applicable permits within 2 years of the date the approval is granted.
16. According to Article 11.3: Unless otherwise specified by the Board, use variance approvals shall be limited to, and run with the applicant at the location specified in the application. The Board may also limit use variances to a specific time period and a specific use. Use variances shall be invalid if (1) the property conforms with the Ordinance as written or (2) the variance is terminated.

### **Surrounding Zoning:**

North: IBD, Industrial: Business Development  
South: MXR, Mixed-Use: Regional Center  
East: IBD, Industrial: Business Development  
West: IBD, Industrial: Business Development

### **Surrounding Land Use:**

North: Mixed-use Commercial (office, gym, contractor)  
South: Lowe's  
East: Interchurch Food Pantry  
West: Enterprise Rental Car

## **CRITERIA FOR DECISIONS – USE VARIANCE:**

### **(\*\*The petitioner will need to address the Criteria for Decisions in their presentation\*\*)**

In taking action on all use variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code. The Board may grant a use variance of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.4) that:

### **DECISION CRITERIA – USE VARIANCE**

1. ***General Welfare: The approval (will or will not) be injurious to the public health, safety, morals, and general welfare of the community.***

#### **Staff Finding:**

Staff finds the approval of the use variance will not be injurious to the public health, safety, or general welfare of the community. All of the required parking will be provided on-site and petitioner will provide a safe and efficient traffic flow through the site. Moreover, the proposed use, albeit not permitted in the IBD district, has similar characteristics to both commercial (retail uses) and industrial (wholesale/distribution) uses; a situation specifically encouraged by the Comprehensive Plan Land Use Plan for this area.

2. ***Adjacent Property: The use and value of the area adjacent to the property included in the variance (will or will not) be affected in a substantially adverse manner.***

#### **Staff Finding:**

The adjacent properties would not be affected in a substantially adverse manner, as the general vicinity is comprised of a variety of commercial and industrial uses and staff finds the proposed use, retail and wholesale auto parts sales, is of similar nature and intensity to the uses permitted in this district. Therefore, the introduction of the proposed auto parts sales business to the area will not substantially impact adjacent properties in a negative manner.

3. ***Peculiar Situation: The need for the variance (arises or does not arise) from some condition peculiar to the property involved.***

#### **Staff Finding:**

Staff finds that the need for the variance does arise from a condition peculiar to the property involved, as staff has found that with the relatively small size of the structure and property for industrial users, finding a permitted strictly-industrial user to operate from this facility would be difficult. Additionally, the location of the property in proximity to other retail businesses along U.S. 31 / N. Morton St. and to other small-scale industrial users along Commerce Drive, makes the site perfectly suited for a transition-type use, such as the proposed retail and wholesale auto parts sales use.

4. ***Unnecessary Hardship: The strict application of the terms of this Ordinance (will or will not) constitute an unnecessary hardship as they are applied to the property for which the variance is sought.***

**Staff Finding:**

Staff finds that the strict application of the terms of the Ordinance will result in an unnecessary hardship, as the proposed use, retail and wholesale auto parts sales, is noticeably similar to other uses permitted by right in the IBD, Industrial Business Development zoning district. Furthermore, an unnecessary hardship would be placed on the property if the proposed semi-retail, semi-industrial use were denied for the property, due to the close proximity to U.S. 31 / N. Morton St. and other retail establishments in the area.

5. ***Comprehensive Plan: The granting of the variance (does or does not) interfere substantially with the Comprehensive Plan.***

**Staff Finding:**

Staff further finds, that the granting of the use variance will not substantially interfere with the Comprehensive Plan. The area is identified as a Business Development Area in the Comprehensive Plan; the Comprehensive Plan states that in many instances the types of businesses in these areas are those that have both commercial and industrial qualities, including the use of outdoor storage and the operation of heavy equipment and machinery. Staff finds the proposed use to be substantially similar to both commercial and industrial uses.

**STAFF RECOMMENDATION – USE VARIANCE**

Based on the written findings above, staff recommends **approval with the following conditions:**

1. Use variance approval is for a retail use (medium scale) – auto parts sales (without onsite repair) use and approval is limited and runs with the applicant, Cord Commercial Enterprises, LLC, at the subject property, 191 Commerce Drive.
2. While the use variance remains active and in effect on the property, no other business or business use is permitted on the property, except those clearly accessory to the primary use, as approved.
3. An application shall be submitted to and shall receive approval from the Division of Fire & Building Safety Plan Review Branch of the Indiana Department of Homeland Security for the change of use, and the structure shall meet all building code requirements for the change of use.
4. All applicable Federal, State, and Local permits / approvals shall be obtained prior to construction / renovation, including but not limited to: State Construction Design Release, Local Building & Sign Permits, etc.
5. A minimum of fourteen (14) parking spaces shall be provided onsite.

**CRITERIA FOR DECISIONS – DEVELOPMENT STANDARDS VARIANCES:**

**(\*\*The petitioner will need to address the Criteria for Decisions in their presentation\*\*)**

In taking action on all special exception and variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code. The Board may grant a special exception and a variance from development standards and limitations of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.5) that:

**DECISION CRITERIA – DEVELOPMENT STANDARDS VARIANCES**

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**1. General Welfare: The approval (will or will not) be injurious to the public health, safety, morals, and general welfare of the community.**

**Staff Finding:**

Staff finds the approval of the proposed development standards variance will not be injurious to the public health, safety or general welfare of the community. The subject property is located within the Franklin Commerce Park subdivision. The subdivision is characterized by long narrow structures extending from front to back and parking areas tightly developed around them, on narrow one acre lots, including the subject lot. The configuration, development, and re-development/re-use of the lots over the years has led to parking areas being tightly wrapped around buildings, being placed between the buildings and Commerce Drive, and anywhere else feasible on the lots. Petitioner's development standards variance request, to be permitted to not provide parking lot perimeter landscaping, is an example of a lot going through re-development and re-use, while trying to balance the requirements of the ordinance with the public health, safety and general welfare. Petitioner decided to propose a full 24 foot interior drive and full 9' x 18' parking spaces, in order to provide a safe and efficient traffic pattern on-site, versus reduced vehicle maneuverability so that a landscaping perimeter could be added. Staff finds that mature landscaping is vital to the public health and general welfare; however, staff finds the public health and safety would be best served, in this instance, by a safe traffic pattern, instead of perimeter landscaping.

**2. Adjacent Property: The use and value of the area adjacent to the property included in the variance (will or will not) be affected in a substantially adverse manner.**

**Staff Finding:**

Staff finds the use and value of the area adjacent to the property will not be affected in a substantially adverse manner. The subject property is located within the Franklin Commerce Park subdivision. The subdivision is characterized by long narrow structures extending from front to back and parking areas tightly wrapped around them, on narrow one acre lots, including the subject lot. The configuration, development, and re-development/re-use of the lots over the years has led to parking areas being tightly wrapped around buildings, being placed between the buildings and Commerce Drive, and anywhere else feasible on the lots. Approval to allow the subject property to develop in a similar manner as neighboring properties will therefore not affect the use and value of those same properties.

**3. Practical Difficulty: The strict application of the terms of the ordinance (will or will not) result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.**

**Staff Finding:**

Staff finds the strict application of the ordinance will result in practical difficulties in the use of the property. The Franklin Commerce Park subdivision and the subject lot were developed as a small lot industrial start-up incubator; however, the small lot sizes and consequently small buildings and parking lot sizes of this subdivision have not been easily adaptable to replacement industrial and commercial users, alike. The properties have proven to be desirable for varying small professional office users, and increasingly for retail users. The subject property has 12 existing parking spaces for the use of the entire 11,955 sq. ft. building. The lack of parking onsite has been a deterrent to potential users and petitioner is proposing a practical solution to make the property viable again. Staff finds additional parking spaces, including a two-way interior drive, would not be possible on the property without the granting of the requested landscaping variance.

**STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES**

Based on the written findings above, staff recommends **approval** with the following conditions:

- a. A maximum of eight (8) standard parking spaces, 9' x 18' in size, or six (6) standard parking spaces and one (1) handicap van accessible space, 16' x 18' in size, are permitted between the building and Commerce Drive.
- b. Two (2) qualifying species broadleaf trees, 2 ½ inch caliber, are required to be planted on-site, and in the front yard.
- c. All applicable Federal, State, and Local permits / approvals shall be obtained prior to construction / renovation, including but not limited to Site Development Plan Review.